

Hertzman

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Request for Relief from Liability for Excess Weight Charges] 5729

FILE: B-198561

DATE: December 24, 1980

MATTER OF: Richard G. Martello - Transportation of Household Goods - Excess Weight

DIGEST: Employee may not be relieved of liability for cost of shipping household goods in excess of statutory amount of 11,000 pounds. Question whether and to what extent authorized weights have been exceeded is question of fact for administrative determination and will not be questioned in absence of evidence showing it to be clearly in error. Record contains two official weight certificates and lack of official stamp and weighing station's record of weighing 9 months later does not clearly indicate one of the certificates is in error where certificate contains GBL number, employee's name, stamped name of carrier, and initials of weighing station employee. Burden of proof is on claimant to establish liability of United States and claimant's right to payment.

Mr. Richard G. Martello, a former civilian employee of the Department of the Army, requests reconsideration of his alleged indebtedness of \$391.54 for excess costs incurred in the shipment of his household goods on October 24, 1973, from Chicago, Illinois, to Davenport, Iowa, incident to his official change of station. The indebtedness was sustained by our Claims Division in its settlement of June 27, 1977 (Z-2616397).

The issue presented is whether Mr. Martello has presented evidence sufficient to cast doubt on the veracity of a certified weight certificate. We do not think that Mr. Martello has met this burden.

The record shows that Mr. Martello's household goods were shipped from Chicago, Illinois, to Davenport, Iowa,

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under Government Bill of Lading (GBL) No. H-O, 973,290. A net weight of 15,200 pounds was shown on the GBL and the carrier billed and was paid by the Government on that basis. Mr. Martello was assessed for the transportation and storage costs applicable to the weight in excess of his statutory weight allowance of 11,000 pounds. See 5 U.S.C. § 5724(a) (1976); Federal Travel Regulations (FPMR 101-7), para. 2-8.2a (May 1973).

Mr. Martello's household goods were weighed to obtain the tare and gross weight on October 24, and 25, 1973, at the Siljestrom Fuel Company. The weight certificate of October 25, does not contain the Siljestrom Fuel Company stamp, although it is similar in all other respects. Mr. Martello says that he called the Fuel Company on July 31, 1974, and requested a confirmation of the weights. The Fuel Company could not locate its copy of the October 25 weight certificate. Thus, Mr. Martello says that the absence of a stamp and lack of any record of the October 25 weighing casts doubt on the veracity of the obtained weight. We disagree.

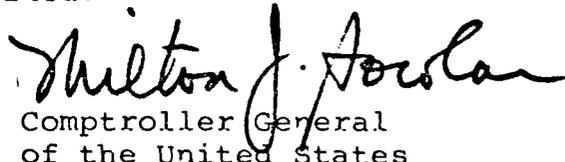
The question of whether and to what extent authorized weights have been exceeded in the shipment of household effects is a question of fact considered to be a matter primarily for administrative determination and ordinarily will not be questioned in the absence of evidence showing it to be clearly in error. Robert W. Dolch, B-197008, February 20, 1980; Joseph S. Montalbano, B-197046, February 19, 1980. Both of the weight certificates are similar in all respects so that it can be determined that they are of the type used by the Fuel Company. They both contain the date, the carrier's name, the GBL number, and Mr. Martello's name. Further, the certificate in question of October 25, 1973, although it does not contain the Fuel Company stamp, is stamped "Fogarty Bros. Transfer, Inc.," the name of the carrier handling the shipment. Also, the certificate contains the initials "FD," who Mr. Martello has identified as being an employee of the Fuel Company. We also cannot say that the lack of a record 9 months after the shipment was weighed is sufficient evidence to indicate that the certificate is in error,

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since it could easily have been misplaced during that time. Therefore, we conclude that Mr. Martello has not presented evidence to show that the weight certificate was clearly in error.

Mr. Martello also points to a subsequent shipment of household effects in 1978 as evidence of an error in the 1973 shipment. However, it has long been our view that the weight of a prior or subsequent move is not necessarily indicative of the weight of the move in question because of the possibility of inclusion or exclusion of items which would vary the prior or subsequent weights. Frederic Newman, B-195256, November 15, 1979. Mr. Martello says he purchased many items since 1973, and although the subsequent shipment in 1978 was also overweight, the prior shipment should have weighed less. The record does not indicate this and we operate on the basis of the written record. The burden is on the claimant to establish the liability of the United States, and his right to payment. 4 C.F.R. § 31.7 (1980). Mr. Martello has not met this burden.

Accordingly, the Claims Division settlement of June 27, 1977, is sustained.



For the Comptroller General
of the United States